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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No : 10/669,238  
Applicant : Creighton et al.  
Filed : September 24, 2003  
Title : High Fiber High Protein Ready-To-Eat Cereal

TC/A.U. : 1761  
Examiner : T. Tran Lien

Docket No. : 6123US

COMMISSIONER FOR PATENTS  
PO Box 1450  
Alexandria, VA 22313-1450

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24 Pages

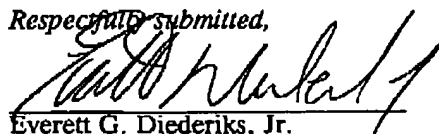
Sir:

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Respectfully submitted,



Everett G. Diederiks, Jr.  
Attorney for Applicant  
Registration Number: 33,323

Date September 13, 2006

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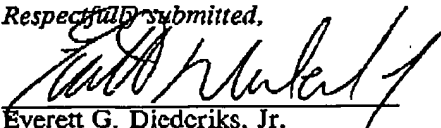
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Respectfully submitted,

  
Everett G. Diederiks, Jr.  
Attorney for Applicant  
Registration Number: 33,323

Date September 13, 2006

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SEP 13 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

|                      |                    |   |                 |              |
|----------------------|--------------------|---|-----------------|--------------|
| In re Application of | Creighton et al.   | ) | Group Art Unit: | 1761         |
|                      |                    | ) |                 |              |
| Serial Number        | 10/669,238         | ) | Examiner:       | T. Tran Lien |
|                      |                    | ) |                 |              |
| Filed                | September 24, 2003 | ) | Docket No:      | 6123US       |

For: High Fiber High Protein Ready-To-Eat Cereal

APPLICANT'S APPEAL BRIEF

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The Applicant of the above-identified U.S. patent application submit this Appeal Brief in response to the Office Action dated April 4, 2006 and in support of an appeal from the final rejection of claims 1-48 in this application.

REAL PARTY OF INTEREST

The above-identified patent application has been assigned to General Mills which assignment has been duly executed by each of the inventors, but not yet filed in the U.S. Patent Office.

RELATED APPEALS AND INTERFERENCES

There does not exist any known related appeals or interferences that would directly affect, be directly affected by or have a bearing on the decision in this case.

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### STATUS OF CLAIMS

Claims 1-48 stand finally rejected and are herewith appealed.

### STATUS OF AMENDMENTS

The Applicant filed an after-final Amendment/Response on June 2, 2006 to the Examiner's Final Rejection dated April 4, 2006. The Applicant amended claim 45 which had been previously rejected under 35 U.S.C. § 112, first and second paragraphs. The Advisory Action dated June 16, 2006 indicated that the amendment to claim 45 would be entered and the § 112 rejections of claim 45 withdrawn upon filing this Appeal.

### SUMMARY OF THE CLAIMED SUBJECT MATTER

The present invention is particularly directed to a cereal dough product having both a high fiber, including both soluble and insoluble fiber, and a high protein content. In view of the health interest in fiber, high fiber cereals are increasingly popular. Typically, as the fiber content of cereals increase, the starch components decrease, adversely affecting the cereals organoleptic and physical properties. Cereals high in insoluble fiber are often dry, exhibit short bowl lives and yield highly frangible food pieces. Conversely, cereals high in soluble fiber are typically gummy or slimy upon consumption. Further, the addition of protein to RTE cereals creates additional challenges because the amount of starchy constituent in the cereal is necessarily decreased in direct proportion to the increase in fiber and protein. The present invention addresses these problems by providing a cereal dough having particular percentages of fiber and protein sources to provide an improved high fiber and high protein RTE cereal with superior organoleptic attributes.

Independent claim 1 is directed to a cooked cereal dough product high in both total dietary fiber and in protein. More specifically, claim 1 requires: a starchy cereal

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component comprising about 20-80% (dry weight) of the cooked cereal dough product; an insoluble dietary fiber ingredient to provide a total insoluble fiber content of about 5-15% (dry weight); a soluble dietary fiber ingredient to provide a total soluble fiber content of about 5-15% (dry weight), wherein the weight ratio of total insoluble to total soluble fiber ranges from about 1:1 – 1.5:1; and a plant protein ingredient to provide a total protein content of about 15-30% (dry weight).

Independent claim 30 is directed to a method for preparing a fiber fortified food product. In a manner similar to claim 1, claim 30 requires: providing a dough with a starchy cereal component comprising about 20-80% (dry weight) of a cooked cereal dough product; an insoluble dietary fiber ingredient to provide a total insoluble fiber content of about 5-15% (dry weight); a soluble dietary fiber ingredient to provide a total soluble fiber content of about 5-15% (dry weight), wherein the weight ratio of total insoluble to total soluble fiber ranges from about 1:1 – 1.5:1; and a plant protein ingredient to provide a total protein content of about 15-30% (dry weight). In addition, claim 30 requires that the cooked cereal dough have about 15%-40% moisture, while being formed into sized shapes and pieces and then dried such that the pieces have a water activity of about 0.1-0.30.

The ranges for the starchy component of the cereal composition, as claimed, are set forth in the present application starting on page 5, line 29. Likewise, the ranges for the insoluble fiber ingredient are set forth in the specification starting on page 6, line 6. Furthermore, the desired ranges for the soluble fiber ingredient are set forth in the specification starting on page 6, line 24. The discussion of the desired ranges for the plant protein ingredient as claimed starts on page 9, line 1. Details regarding the method of preparing a food product in accordance with claim 30 can generally be found starting on page 13, line 5.

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In connection with certain dependent claims, claim 8 requires a majority of the plant material of claim 1 to be wheat gluten such as set forth in a preferred embodiment disclosed in the example provided on page 21 of the specification.

Claims 12 and 31 concern the particular embodiment wherein the soluble dietary fiber ingredient of claims 1 and 30 respectively is provided by inulin, preferably in a sugar coating such as disclosed in paragraphs 0030-0032.

Claim 25 specifies that the soluble dietary fiber ingredient of claim 1 is provided as a topical coating as disclosed in paragraphs 0030 and 0031.

Like claim 12, claims 26 and 27 also concern the limited embodiments wherein the soluble dietary fiber comes from inulin, specifically topically applied inulin.

Claim 33 depends from independent method claim 30 and requires that inulin be specifically added in making the dough, after the dough is cooked.

Claim 37 requires that at least a majority of the insoluble dietary fiber ingredient of the method claims is provided by certain cereal bran ingredients for which support is found on in paragraphs 0027 and 0095+.

#### **GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

The Grounds of rejection presented for review include:

1. Claims 1-11, 14-25, 28-30, 37, 38 and 43-48 currently stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,024,996 to Ringe in view of U.S. Patent No. 6,242,033 to Sander; and

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2. Claims 12, 13, 26, 27, 31-36 and 39-42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,024,996 to Ringe in view of U.S. Patent No. 6,242,033 to Sander and in further view of U.S. Patent No. 6,149,965 to van Lengerich et al.

### ARGUMENTS

- I. Claims 1-7, 9-11, 14-25, 28-30, 37, 38 and 43-48 currently stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,024,996 to Ringe in view of U.S. Patent No. 6,242,033 to Sander.

#### A. Claims 1-7, 9-11, 14-24, 28-30 and 43-48

It is respectfully submitted that the Examiner has failed to set forth a prima facie case of obviousness for these claims. On page 5 of the September 26, 2005 Office Action, the Examiner admits that Ringe does not disclose adding protein in the amount and type of protein claimed and fails to teach the particle sizes of the fiber. See also page 2 of the April 4, 2006 Office Action referencing the arguments of the September 26, 2005 Office Action. However, the Examiner notes that Sander discloses a high protein cereal, and essentially argues that it would have been obvious to one of ordinary skill in the art to add protein to the Ringe cereal as taught by Sander to make a high protein cereal. Thus, having found references that teach the individual ingredients presented in the claims, the Examiner holds that it would have been obvious to one of ordinary skill in the art to combine the ingredients to make the specifically claimed cereal product. The Examiner then takes the further position, without any suggestion in the art, that the specified ranges and ratios are all obvious. It is submitted that these rejections are clearly erroneous for at least the reasons set forth below.

Three requirements must be met to show a prima facie case of obviousness under 35 U.S.C. § 103: 1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art; 2)

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there must be a reasonable expectation of success; and 3) the prior art reference(s) must teach or suggest all of the claim limitations. See M.P.E.P. 2143.03. In determining the propriety of the Patent Office case of obviousness, it is necessary to ascertain whether or not the reference teachings would appear to be sufficient for one of ordinary skill in the relevant art having the references before him/her to make the proposed substitution, combination, or other modification. See M.P.E.P. 2143.01 (citing *In re Lintner*, 458 F.2d 1013, 1016, 173 USPQ 560,562 (C.C.P.A. 1972)).

In combining Sander with Ringe, the Examiner fails to provide proper motivation for combining these references, but simply states that it would have been obvious to one skilled in the art to add protein to the Ringe cereal as taught by Sander to make a high protein cereal to enhance the nutritional profile of the product. See page 5 of the September 26, 2005 Office Action. The Examiner goes on to state, in responding on page 3, lines 4+ of the Office Action dated April 4, 2006 to a question of motivation to add any protein to Ringe, that "applicant does not set forth any evidence or reason why the references cannot be combined." Basically, it appears that the position of the Examiner is the Applicant must show why the references cannot be combined or else the combination is obvious. Simply put, this statement/position is misplaced. The burden is not on the Applicant to answer why the references cannot be combined, but rather on the Examiner to show the proper motivation to combine. The record appears to show that if the ingredients even exist, the combination is obvious unless the Applicant can provide a reason to the contrary. This position is not supported by existing case law. For example, the U.S. Courts of Customs and Patent Appeals has consistently held that a patentable invention, within the ambit of 35 U.S.C. § 103, may result even if the inventor has, in effect, merely combined features, old in the art, for their known purpose, without producing anything beyond the results inherent in their use. *In re Spohnable*, 56 C.C.P.A. 823; 405 F.2d 578 (CCPA 1969). The fact remains that the art must provide the proper motivation for the combination, rather than the combination being just considered obvious by the Examiner, who is well beyond one of ordinary skill in the art, without any teaching to make the combination. Regardless, for the record, the Applicant



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would appreciate the Examiner setting forth her position regarding this point, i.e., her stance on the obviousness in combining known ingredients, so that the Applicant can focus any further arguments presented.

As set forth in the Applicant's specification, the addition of protein and fiber to RTE cereals creates challenges because the amount of starchy constituent in the cereal is necessarily decreased in direct proportion to the increase in protein and fiber. As recognised by the Examiner, **Ringe only teaches a high fiber product and Sander only teaches a high protein product. If anything, Sanders teaches away from the present invention by actually providing high protein in combination with only low fiber.** Specifically, the highest amount of dietary fiber present in any of the examples in Sander is 8.7%, set forth in Example 4. Again, obviousness cannot be established by combining teachings of prior art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. See *In re Gorman*, 933 F.2d 982 (1984). A proper rejection under 35 U.S.C. § 103 cannot be based on hindsight knowledge of the invention under consideration for the sole basis of attempting to meet the recitations of the claims. Specifically, the CAFC in *Environmental Designs, Ltd. v. Union Oil Co. of Cal.* 218 USPQ 865, 870 (1983) stated:

*All the pieces of the present invention were known in the art... That all elements of an invention may have been old (the normal situation), or some old and some new, or all new, is, however, simply irrelevant (emphasis added). Virtually all inventions are combinations and virtually all are combinations of old elements. A court must consider what the prior art as a whole would have suggested to one skilled in the art (Case citations).*

In the art of food sciences, there is a set list of ingredients approved by the FDA for human consumption. All food products must contain one or more ingredients from that list. In short, inventors are limited to a defined list of ingredients that may be combined to produce new or novel food products. In the present situation, cereal

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products with insoluble fiber and soluble fiber ingredients are known. In addition, a cereal with a protein ingredient is known. All of these ingredients are on the list of FDA approved ingredients. However, this just indicates that pieces of the present invention are known which, in considering patentability of the invention, is simply irrelevant. **None of the prior art discloses or suggests the combination of the multiple forms of fiber and the plant protein ingredient presented in the specific ranges claimed.** The Examiner holding that the combination is obvious just because the main ingredients of the invention are known is simply improper. Essentially, the Examiner is using an improper "obvious to try" argument. As stated by the CAFC in *In re Deuel*:

*"Obvious to try" has long been held not to constitute obviousness. (case citation). A general incentive does not make obvious a particular result, nor does the existence of techniques by which those efforts can be carried out. In re Deuel, 51 F.3d 1552, 1559 (Fed. Cir. 1995).*

If the Examiner is permitted to combine any combination of ingredients in any ranges or percentages simply because they exist and could be so combined, food product manufacturers will, effectively, be prevented from patenting any new products whatsoever. The CAFC in *In re Gordon*, 221, USPQ 1125, 1127 (1984) stated:

*The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification. (Case citations.) See also M.P.E.P. 2143.01 citing In re Mills, 916 F.2d 680 (Fed. Cir. 1990).*

Thus, without a motivational teaching in the art to combine the known ingredients in the manner specifically claimed, the Applicant respectfully submits that the Examiner has not satisfied her burden of establishing a prima facie case of obviousness. It appears to the Applicant that Ringe clearly sets forth typical problems associated with high fiber cereals, including dryness and high frangibility. See column 1, lines 40-47 of Ringe.

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The goal in Sander is to produce a high protein expandable cereal product by extrusion. The fact that the starch content of Sander would necessarily be significantly reduced if added to high amounts of fiber as set forth in Ringe would yield a cereal product unlike any of the examples set forth in either the Ringe or Sander references.

Even if the combination set forth by the Examiner was attempted, there is absolutely no teaching to meet the specific amounts of certain ingredients claimed, particularly the percentage of plant protein. To this end, the Examiner fails to set forth any argument for reasonable expectation of success with regards to the specific result of the combination of the Ringe and Sander references. Instead, the Examiner merely asserts that the proper amount of protein to add to the cereal of Sander could be readily determined through routine experimentation to obtain the most optimum product with respect to taste and nutrition. See page 5 of the September 26, 2005 Office Action. Is this purported "optimum product" even the same as that claimed? In other words, assuming *arguendo* that the Examiner's combination would be attempted, where is the suggestion to lead one of ordinary skill in the art to the particular product claimed, instead of perhaps a combination of the same ingredients in different ranges, percentages and ratios? If the Examiner is permitted to gloss over these specific limitations as obvious in view of no teaching, then the Examiner can simply reduce each claim to just the individual ingredients employed and any attempt by the Applicant to claim preferred, distinct embodiments would be futile.

More specifically, each of these claims require specific percentages of insoluble fiber, soluble fiber and plant protein. In accordance with the law, limitations in a claim distinguishing over the prior art cannot be ignored. See *In re Boe et al.*, 505 F.2d 1297, 184 USPQ 38 (CCPA 1974). Neither of the references cited by the Examiner teach or suggest the percentages of insoluble fiber, soluble fiber and particularly plant protein required by the claims. Instead, the Examiner simply states that the proper amount of protein to be added to Sander can be readily determined through routine experimentation to obtain the most optimum product with respect to taste and nutrition. See page 5 of the

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September 26, 2005 Office Action. The Examiner's theory that one might have been motivated to try to do what the Applicant's invention in fact accomplishes amounts to speculation and is an impermissible hindsight reconstruction of the claimed invention. In the CAFC case of *In re Deuel*, for example, the court held that the fact that one can conceive a general process in advance for preparing an undefined compound does not mean that a claimed specific compound was precisely envisioned and therefore obvious. *In re Deuel*, 51 F.3d 1552 (Fed. Cir. 1995). Furthermore, as the addition of protein will decrease the starchy component claimed (explicitly taught both by the present specification and the cited prior art), this variable in the combination would also need to be addressed.

Finally, the Applicant respectfully submits that the Examiner has improperly shifted the burden of proof onto the Applicant to prove unexpected results obtained by the combination of claimed ingredients without initially establishing a prima facie case of obviousness. An Applicant need only show criticality of the claimed range to rebut a prima facie case of obviousness based on overlapping ranges within the prior art and the Applicant's claims. See M.P.E.P. 2144.05. The Examiner has failed to point out overlapping ranges in the prior art. Instead, the Examiner is simply combining references in the prior art, each of which contain individual ingredients that are present in the Applicant's claims, without any motivation to combine the ingredients in the manner suggested other than a broad perfunctory statement that it is obvious to one of skill in the art to add, for example, a high amount of protein to the Ringe cereal product when desiring a product having a high fiber and protein content. Again, it must be kept in mind that Sander teaches away from having the at least 10% fiber claimed in combination with high levels of protein.

#### B. Claim 8

Claim 8 depends indirectly from claim 1 and therefore the arguments presented above with respect to claim 1 equally apply to the overall subject matter of this claim. However, claim 8 further requires that a majority of the plant protein in claim 1 be

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constituted by wheat gluten. Page 21 of the present specification sets forth a preferred embodiment of the invention which is encompassed by this claim. Simply stated, this limitation has not at all been addressed in the Final Office Action. To the contrary, the Examiner only references "protein sources of soy protein, corn zein, protein from any recognized cereal sources and mixtures thereof" on page 5 of the September 26, 2005 Office Action. To this end, it appears that no prior art has actually been applied against this claim.

C. Claim 25

Claim 25 depends directly from claim 1 and therefore the arguments presented above with respect to claim 1 equally apply to the overall subject matter of this claim. However, claim 25 further requires that a portion of the soluble dietary fiber ingredient be provided as a topical coating. The rejection including this claim is presented on pages 4-6 of the September 26, 2005 Office Action. Nowhere does this rejection discuss providing a topical coating. Instead, it is not until the addition of the van Lengerich et al. patent to the overall combination in rejecting other claims in this case is there mention of any topical coating at all. In any case, it is respectfully submitted that there has been no prior art actually applied against this claim.

D. Claims 37 and 38

These claims depend either directly or indirectly from claim 36. As claim 36 has not been rejected by the combination of Ringe in view of Sander, the full limitations of claims 37 and 38 cannot properly be met.

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- II. Claims 12, 13, 26, 27, 31-36 and 39-42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,024,996 to Ringe in view of U.S. Patent No. 6,242,033 to Sander and in further view of U.S. Patent No. 6,149,965 to van Lengerich et al.

A. Claims 12, 13, 31 and 32

It is respectfully submitted that the Examiner has failed to set forth a prima facie case of obviousness for the subject matter of these claims, such as represented by claims 12 and 31. As the Applicant has already raised various points in connection with the lack of motivation to combine Ringe with Sander, as well as the failure of this combination to address certain ratios, ranges and/or percentages recited in independent claims 1 and 30, these points will not be reiterated here but rather are incorporated by reference. More importantly, in rejecting these claims, the Examiner has found it obvious to add van Lengerich et al. to the combination of Ringe and Sander. To be succinct, the Applicant would acknowledge that van Lengerich et al. teaches employing inulin in cereal. However, the Applicant would submit that the Examiner has only combined van Lengerich et al. with Ringe and Sander based on hindsight of the present invention. Just because other forms of soluble fiber exist does not mean that one of ordinary skill in the art would look to modify Ringe to solve any known problem. Again, the Examiner merely appears to hold that the combination is considered obvious because the individual teachings exist.

B. Claims 26 and 27

In a manner similar to that set forth above with respect to at least claims 12 and 31, it is respectfully submitted that the Examiner has failed to set forth a prima facie case of obviousness for the subject matter of claims 26 and 27. The arguments for claims 26 and 27 are actually being separately presented from claims 12 and 31 as claims 26 and 27 depend from separately argued claim 25. In any case, as the Applicant has already raised various points in connection with the lack of motivation to combine Ringe with Sander, as well as the failure of this combination to address certain ratios, ranges and/or

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percentages recited in independent claim 1, these points will not be reiterated here but rather are incorporated by reference. More importantly, in rejecting claims 26 and 27, the Examiner has found it obvious to add van Lengerich et al. to the combination of Ringe and Sander. Again, the Applicant would acknowledge that van Lengerich et al. teaches employing inulin in cereal. However, the Applicant would submit that the Examiner has only combined van Lengerich et al. with Ringe and Sander based on hindsight of the present invention. Just because other forms of soluble fiber exist does not mean that one of ordinary skill in the art would look to modify Ringe to solve any known problem. Again, the Examiner merely appears to hold that the combination is considered obvious because the individual teachings exist.

C. Claims 33-36 and 39-41

Again, as the Applicant has already raised various points in connection with the lack of motivation to combine Ringe with Sander, as well as the failure of this combination to address certain ratios, ranges and/or percentages recited in independent claim 30, these points will not be reiterated here but rather are incorporated by reference. Instead, claim 33 details a preferred timing of adding the inulin. More specifically, claim 33 requires at least a portion of the inulin to be added to the dough after the dough is cooked. Ringe mixes the soluble and the insoluble fiber ingredients prior to cooking. So, even if Ringe was modified by van Lengerich et al. to employ inulin as the soluble fiber as suggested by the Examiner, it is submitted that the inulin would be added commensurate with the teachings in Ringe, i.e., prior to cooking of the dough, such that claim 33 is patentably distinct. Without a teaching to the contrary, it is respectfully submitted that there is no motivation to depart from the disclosed invention of Ringe in the combination presented.

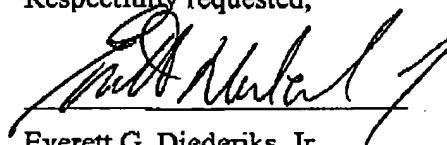
SUMMARY

It is respectfully submitted that the Examiner has failed to establish a prima facie case of obviousness under 35 U.S.C. § 103 in rejecting many claims in this application

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and has additionally not even addressed other claim limitations. Most importantly, it is submitted that, for the reasons set forth above, the prior art of record, when taken singly or in combination, does not teach or suggest a dough product or method of making a dough product including the combination of: a starchy cereal component comprising about 20-80% (dry weight) of the cooked cereal dough product; an insoluble dietary fiber ingredient to provide a total insoluble fiber content of about 5-15% (dry weight); a soluble dietary fiber ingredient to provide a total soluble fiber content of about 5-15% (dry weight), wherein the weight ratio of total insoluble to total soluble fiber ranges from about 1:1 – 1.5:1; and a plant protein ingredient to provide a total protein content of about 15-30% (dry weight). Proper motivation for combining the various references in the manner set forth by the Examiner is not taken from the prior art or one of ordinary skill in the art. The Examiner's theory that one might have been motivated to try to do what the Applicant's invention, in fact, accomplishes, amounts to speculation and is an impermissible hindsight reconstruction of the claimed invention. From a patent law standpoint, the Examiner cannot be permitted to combine any combination of ingredients and then alter the percentages of those ingredients just to meet specific claim limitations simply because the ingredients exist and could possibly be so combined/altered. Such types of non-motivational rejections would severely hamper the development of new products in contrary to the intent of the patent system. Therefore, it is respectfully requested that the Examiner's rejections be reversed.

Respectfully requested,



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Reg. No. 33,323

Date: September 13, 2006  
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**CLAIMS APPENDIX**

1. A cooked cereal dough product high in total dietary fiber and in protein, comprising:
  - A. About 20% to 80% (dry weight) of the cooked cereal dough product of at least one starchy cereal ingredient;
  - B. sufficient amounts of at least one insoluble dietary fiber ingredient to provide a total insoluble fiber content of about 5-15% (dry weight);
  - C. sufficient amounts of at least one soluble dietary fiber ingredient to provide a total soluble fiber content about 5% to 15% (dry weight); and wherein the weight ratio of total insoluble to total soluble fiber ranges from about 1:1. to about 1.5:1; and,
  - D. sufficient amounts of a plant protein ingredient to provide a total protein content of about 15% to 30% (dry weight).
2. The cooked cereal dough product of claim 1 wherein at least a majority portion of the insoluble dietary fiber ingredient is provided by a cereal bran ingredient selected from the corn bran, wheat bran, rice bran and mixtures thereof.
3. The cooked cereal dough product of claim 2 wherein the cereal bran is added in a form having a particle size ranging from about 50 to 800 micron.
4. The cooked cereal dough product of claim 3 wherein the cereal bran has a particle size ranging from about 50 to 600 micron.
5. The cooked cereal dough product of claim 2 wherein the plant protein ingredient is selected from the group consisting of wheat gluten, corn zein, defatted soy meal or flour, soy protein, soy protein isolate, and mixtures thereof.
6. The cooked cereal dough product of claim 5 wherein the plant protein is selected from the group consisting of wheat gluten, corn zein and mixtures thereof.

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7. The cooked cereal dough product of claim 6 wherein the cooked cereal dough product is free of soy protein.
8. The cooked cereal dough product of claim 6 wherein a majority portion of the plant protein is wheat gluten.
9. The cooked cereal dough product of claim 6 further comprising a moisture content of about 15 to 35%.
10. The cooked cereal dough product of claim 2 in the form of a dried food piece having a moisture content of about 2%-6%.
11. The cooked cereal dough product of claim 10 wherein the dried food piece includes a topical coating.
12. The cooked cereal dough product of claim 2 wherein at least a portion of the soluble dietary fiber ingredient is provided by inulin having a DP ranging from about 9-17.
13. The cooked cereal dough product of claim 12 wherein at least a portion of the inulin is provided in the sugar coating.
14. The cooked cereal dough product of claim 6 wherein the wheat gluten is non-vital wheat gluten.
15. The cooked cereal dough product of claim 2 in the form of flakes.
16. The cooked cereal dough product of claim 15 wherein the flakes have a thickness of less than 1 mm.

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17. The cooked cereal dough product of claim 1 wherein the starchy cereal ingredient is selected from the group consisting of rice flour, wheat flour and mixtures thereof.
18. The cooked cereal dough product of claim 2 wherein a portion of the insoluble dietary fiber ingredient is provided by about 0.1% to 1% of carboxymethyl cellulose.
19. The cooked cereal dough product of claim 17 comprising about 18-22% total dietary fiber and about 18-22% wheat gluten.
20. The cooked cereal dough product of claim 15 wherein the flakes are dried having a moisture content of about 2% to 6%.
21. The cooked cereal dough product of claim 16 wherein the flakes are wet having a moisture content of about 10% to 25%.
22. The cooked cereal dough product of claim 1 having a sugar content of less than 2%.
23. The cooked cereal dough product of claim 2 having a fat content of less than 2%.
24. The cooked cereal dough product of claim 2 additionally including about 0.5% to 4% salt.
25. The cooked cereal dough product of claim 1 wherein at least a portion of the soluble dietary fiber ingredient is provided as a topical coating.
26. The cooked cereal dough product of claim 25 wherein the topical coating includes inulin.
27. The cooked cereal dough product of claim 26 wherein the topical coating includes about 30% to 50% inulin.

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28. The cooked cereal dough product of claim 1 wherein the plant protein ingredient is substantially free of wheat gluten.

29. The cooked cereal dough product of claim 1 wherein the plant protein ingredient is substantially free of corn zein.

30. A method for preparing a fiber fortified food product, comprising the steps of:

A. providing a cooked cereal dough comprising;

1. About 20% to 80% (dry weight) of the cooked cereal dough product of at least one starchy cereal ingredient;
2. sufficient amounts of at least one insoluble dietary fiber ingredient to provide a total insoluble fiber content of about 5-15% (dry weight);
3. sufficient amounts of at least one soluble dietary fiber ingredient to provide a total soluble fiber content about 5% to 15% (dry weight); and wherein the weight ratio of total insoluble to total soluble fiber ranges from about 1:1. to about 1.5:1; and,
4. sufficient amounts of a plant protein ingredient to provide a total protein content of about 15% to 30% (dry weight), and,
5. about 15% to 40% moisture;

B. forming the cooked cereal dough into sized shapes and pieces; and

C. drying the pieces to a water activity of about 0.1 to 0.30 to form dried cereal dough pieces.

31. The method of claim 30 wherein at least a portion of the soluble fiber is provided by inulin.

32. The method of claim 31 wherein the soluble fiber level is at least 2g/oz.

33. The method of claim 30 wherein step A includes adding at least a portion of inulin to the dough after cooking.

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34. The method of claim 33 wherein the dried cereal dough pieces constitute dried pellets having a moisture content of about 15-20%.
35. The method of claim 34 wherein in step C includes the sub-step of forming flaked pieces, and wherein in step C includes the sub-step of toasting the flaked pieces to form toasted, dried flaked R-T-E pieces.
36. The method of claim 35 wherein the method further includes:  
D. providing a sugar coating to the flaked R-T-E pieces.
37. The method of claim 36 wherein at least a majority portion of the insoluble dietary fiber ingredient is provided by a cereal bran ingredient selected from the corn bran, wheat bran, rice bran and mixtures thereof and the dried cereal dough pieces constitute R-T-E cereal.
38. The method of claim 37 wherein a portion of the insoluble dietary fiber ingredient is provided by about 0.1% to 1% of carboxymethyl cellulose.
39. The method of claim 33 wherein step B includes the sub-step of forming the dough into pellets and wherein at least a portion of the inulin is added during pellet forming.
40. The method of claim 33 wherein at least a portion of the inulin is topically applied.
41. The method of claim 33 wherein at least a portion of the inulin is topically applied in a sugar coating.
42. The method of claim 30 wherein the soluble dietary fiber ingredient is provided by  $\beta$ -2-fructofuranose.
43. The method of claim 30 wherein the cooked cereal dough includes whole wheat.

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44. The method of claim 30 wherein the method further includes:  
D. deep fat frying whereby the dried cereal dough pieces are puffed to form puffed fried snack pieces.
45. The method of claim 30 wherein step A includes adding about 0.1% to 1% of carboxymethyl cellulose.
46. The method of claim 30 wherein the cooked cereal dough includes a high potency sweetener.
47. The method of claim 46 wherein the high potency sweetener is selected from the group consisting of aspartame, sucralose, potassium acesulfame, and mixtures thereof.
48. The method of claim 47 wherein at least a portion of the high potency sweetener is sucralose.

**EVIDENCE APPENDIX**

Not Applicable

**RELATED PROCEEDING APPENDIX**

Not Applicable